

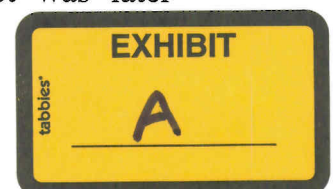
## DECLARATION

I, Derek Marion, a Task Force Officer with the Drug Enforcement Administration, hereby state, pursuant to Title 28 United States Code, Section 1746, under penalty of perjury and pursuant to the laws of the United States, that the following information is true and correct to the best of my knowledge, information and belief:

1. I am a Task Force Officer with the Drug Enforcement Administration (DEA) and I am employed by the Kernersville Police Department and have been so employed since 2004. I am currently assigned to the Vice & Narcotics Unit as a Detective and a Narcotics Canine Handler. During the time I have been a law enforcement officer, I have attended numerous law enforcement classes sponsored by the Kernersville Police Department, NC Justice Academy and the DEA where I have received training in narcotics enforcement. I have conducted and assisted in numerous narcotics investigations. Through the training and experience gained during these narcotics investigations, I am familiar with the methods used by individuals involved in the trafficking of narcotics to conceal the proceeds of their unlawful activities.

2. The facts and circumstances set forth in this Declaration are based upon the Declarant's personal knowledge and from interviews with officers who responded to the scene.

3. On April 1, 2011 at approximately 10:06 a.m., surveillance via pole camera of the property located at 169 W. Steeple Chase Road, Greensboro, North Carolina, observed a subject wearing a dark in color hooded sweatshirt and jeans enter a 1996 GMC van bearing North Carolina registration ZXY-9227. This subject was later



identified as Jose Abel RAMIREZ-Lopez. The van departed the location followed by a gray 2009 Dodge Ram 3500 “dually” pickup bearing Illinois registration 98545F. The occupant(s) of the Dodge Ram 3500 were not observed at this time.

4. At approximately 10:19 a.m., a DEA confidential source of information (hereafter referred to as “CS-1”) was dropped off by agents in the area of the Waffle House restaurant located at 3204 High Point Road, Greensboro, North Carolina. CS-1 remained at the Waffle House awaiting the arrival of targets with whom he/she was in telephone contact.

5. At approximately 11:30 a.m., DEA Special Agents Hanley and Schwartz observed the above-described Dodge Ram 3500 and GMC van exit Interstate 40 westbound at High Point Road in tandem.

6. At approximately 11:32 a.m., DEA Special Agents Kaplan and Coolidge observed both vehicles arrive at the Waffle House. The GMC van parked on the west side of the parking lot while the Dodge Ram 3500 parked in the rear parking area. Two subjects, later identified as Rito GUTIERREZ-Cabral and Miguel Angel RODRIGUEZ-Castro, exited the Dodge Ram 3500 and entered the Waffle House. Jose Abel RAMIREZ-Lopez, who appeared to be the only occupant of the GMC van, also entered the Waffle House.

7. At approximately 11:48 a.m., the GMC van departed the Waffle House driven by a single occupant, CS-1. Surveillance agents followed the van to a predetermined location, where agents placed seventy (70) kilograms of powder cocaine into the rear cargo area of the van. The seventy (70) kilograms of powder cocaine was

contained within two large black duffle bags, each containing thirty-five bricks of cocaine, and one bag containing a sham kilogram wrapped in black electrical tape and containing a GPS transmitter. The brick containing the GPS tracking device was placed in a side compartment containing three real bricks of cocaine and the zipper was closed. An additional GPS tracking device was placed on the GMC van at this time.

8. At approximately 12:18 p.m., SA Kaplan observed Rito GUTIERREZ-Cabral, Miguel Angel RODRIGUEZ-Castro, and Jose Abel RAMIREZ-Lopez exit the Waffle House and depart in the Dodge Ram 3500. Surveillance of the vehicle was maintained as the Dodge Ram 3500 traveled eastbound on I-40, southbound on E. Lee Street, then southbound on I-85.

9. At approximately 12:42 p.m., SA's Hanley and Schwartz observed the Dodge Ram 3500 arrive at the Lowe's Home Improvement store located at 109 W. Elmsley Dr., Greensboro, North Carolina. SA's Hanley and Schwartz observed Rito GUTIERREZ-Cabral (driver), Miguel Angel RODRIGUEZ-Castro (front passenger), and Jose Abel RAMIREZ-Lopez (rear passenger) exit the vehicle and enter Lowe's. RODRIGUEZ-Castro was observed carrying a flip-type cellular telephone in his right hand after exiting the vehicle. At approximately 12:54 p.m., SA's Hanley and Schwartz observed the three subjects exit Lowe's and return to the vehicle. RAMIREZ-Lopez was carrying a roll of carpet padding, which was placed in the bed area of the Dodge Ram 3500. All three subjects then returned to the store.

10. At approximately 1:04 p.m., surveillance agents observed the GMC van, driven by CS-1, arrive at the Lowe's store on Elmsley Drive. At this time, all three



subjects traveling in the Dodge Ram 3500 had returned to the parking lot. SA Schwartz observed Miguel Angel RODRIGUEZ-Castro talking on the telephone and surveying the parking lot as the van arrived. CS-1 parked and exited the GMC van, leaving the vehicle keys inside, and entered the Lowe's store.

11. At approximately 1:05 p.m., SA's Hanley and Schwartz observed Rito GUTIERREZ-Cabral and Jose Abel RAMIREZ-Lopez return to the Dodge Ram 3500. Potted plants were placed into the bed of the truck by RAMIREZ-Lopez before he and GUTIERREZ-Cabral entered the vehicle. A short time later, RAMIREZ-Lopez exited the Dodge Ram 3500 and walked to the GMC van. RAMIREZ-Lopez entered the van and departed the Lowe's followed by surveillance agents.

12. At approximately 1:13 p.m., SA's Hanley and Schwartz observed the Dodge Ram 3500 depart the Lowe's parking lot occupied by Rito GUTIERREZ-Cabral (driver) and Miguel Angel RODRIGUEZ-Castro.

13. At approximately 1:14 p.m., agents observed the GMC van arrive at 169 W. Steeple Chase Road, Greensboro, North Carolina. The van was met by Aldo MURCIA, who appeared on foot from the rear of the property. At approximately 1:16 p.m., MURCIA moved a red Chevrolet Silverado pickup bearing North Carolina registration XPB-6583 from its initial location behind a horse trailer. The GMC van was moved to the spot where the red pickup had been parked. Despite an abundance of space to park, MURCIA then moved the red pickup and parked it directly behind the GMC van. This location effectively blocked the view of the GMC van from street traffic.

14. At approximately 1:18 p.m., agents observed the Dodge Ram 3500 arrive at 169 W. Steeple Chase Road and park next to the GMC van. Rito GUTIERREZ-Cabral and Miguel Angel RODRIGUEZ-Castro exited the vehicle and began unloading the plants from the bed of the truck to a red, two-story building in the center of a horse stable area. This building was accessed via a doorway located at the rear of a parked horse trailer adjacent to the GMC van. At this time, agents could not see the whereabouts of Jose Abel RAMIREZ-Lopez or Aldo MURCIA.

15. At approximately 1:56 p.m., surveillance observed Aldo MURCIA and Rito GUTIERREZ-Cabral appear from the rear of the main stable building. *[NOTE: This location is within a few feet of where the GPS tracking unit from the sham kilogram was later recovered. See ¶ 20.]* MURCIA then moved the red Chevrolet Silverado to the rear of the residence and parked the vehicle. As this was occurring, the GMC van was backed to the wood line at the southwest corner of the property between two buildings. MURCIA then entered a gold Honda Accord bearing North Carolina registration ZXY-5842 and backed the vehicle out of the stable area. As this vehicle remained in the driveway, surveillance observed Rito GUTIERREZ-Cabral appear from the wood line area near the GMC van at approximately 2:00 p.m. GUTIERREZ-Cabral and Miguel Angel RODRIGUEZ-Castro then removed the large carpet padding roll from the bed of the Dodge Ram 3500 and RODRIGUEZ-Castro placed the padding roll in a newly constructed stall near the Dodge Ram 3500.

16. At approximately 2:02 p.m., DEA TFO Floyd observed the GMC van appear from between the buildings and depart the property following the gold Honda

Accord. TFO Floyd observed both vehicles turn west on W. Steeple Chase Road, then southbound on Old Randleman Road with the gold Honda Accord following the GMC van. SA's Hanley and Schwartz followed both vehicles southbound on Old Randleman Road before turning southbound on Coltrane Mill Road and continuing southbound from N.C. 62.

17. At approximately 2:03 p.m., surveillance observed Rito GUTIERREZ-Cabral (driver) and Miguel Angel RODRIGUEZ-Castro enter the Dodge Ram 3500 and depart 169 W. Steeple Chase Road. TFO Floyd observed the vehicle travel southbound on Old Randleman Road before turning southbound on Coltrane Mill Road.

18. At approximately 2:08 p.m., two simultaneous traffic stops were conducted on the GMC van and gold Honda Accord on Coltrane Mill Road at Cedar Square Road. Jose Abel RAMIREZ-Lopez, the driver and only occupant of the van, was taken into custody by Guilford County Sheriff's Office (GCSO) Cpl. W. Case and SA Hanley. A subsequent search of the GMC van resulted in the seizure of two black duffle bags containing approximately 70 kilograms of cocaine from the cargo area behind the third row seating. SA Hanley observed that three of the packages had been removed from the black electrical tape and were then contained within clear plastic. One kilogram-sized package was found in an open clear plastic bag that had not been sealed. Aldo MURCIA, the driver and only occupant of the Honda Accord, was taken into custody by TFO Cornell and SA Schwartz. MURCIA was found to be in possession of identification in the name of Oton Lepe Olguin.



19. At approximately 2:11 p.m., TFO's Cornell and Floyd conducted a traffic stop of the Dodge Ram 3500 approximately one-half mile south of the initial stops. At this time, Rito GUTIERREZ-Cabral (driver) and Miguel Angel RODRIGUEZ-Castro were taken into custody. Three cellular telephones were seized from GUTIERREZ-Cabral at the time of his arrest. TFO Cornell located a plastic SIM card holder in the front pant pocket of RODRIGUEZ-Castro at the time of his arrest. This SIM card holder is a missing part from the GPS tracker concealed inside the sham kilogram of cocaine, which was later found buried on the property at 169 W. Steeple Chase Road.

20. At approximately 2:13 p.m., agents secured the residence and property at 169 W. Steeple Chase Road. TFO Cornell applied for and obtained a state search warrant for the property located at 169 W. Steeple Chase Road. At approximately 7:00 p.m., a search of the residence and property was conducted. No items of evidentiary value were seized beyond the recovery of one GPS tracker found buried in a pile of sawdust behind the southeast corner of the main stable building. The tracking device had been disconnected from the battery unit and appeared to have been partially pried open. The SIM card holder and SIM card were missing.

21. The Dodge Ram 3500, VIN 3D7MX48L59G512306, was seized pending forfeiture. The Dodge Ram 3500 is currently registered to Martin GUTIERREZ, 111 Saratoga Dr., Glendale Heights, Illinois. This subject has been identified as the brother of Rito GUTIERREZ-Cabral.

22. Martin GUTIERREZ is also a party to another forfeiture action pending in the Middle District of North Carolina. On April 5, 2011, a Verified Complaint of

Forfeiture was filed against the real property known as 712 Flake Briles Road, Trinity, North Carolina [1:11CV00265]. The property is believed to be owned by Rito GUTIERREZ-Cabral but placed in the name of his brother, Martin GUTIERREZ, to conceal the true ownership of the property.

23. DEA adopted the seizure of the 2009 Dodge Ram 3500, VIN 3D7MX48L59G512306 and began administrative forfeiture proceedings. Notice of the forfeiture proceeding was published in the *Wall Street Journal* on May 31, June 7, and June 14, 2011. On or about June 17, 2011, DEA received a Claim to the defendant property from Martin Gutierrez. Because a claim was filed, the administrative process was terminated and the seizure was referred to the United States Attorney's Office for judicial forfeiture.

#### CONCLUSION

24. Based on the foregoing, your declarant maintains there is probable cause to believe that the 2009 Dodge Ram 3500, VIN 3D7MX48L59G512306 seized from Rito GUTIERREZ-Cabral on April 1, 2011 was used or intended for use to transport or in any manner to facilitate the transportation, sale, receipt, possession or concealment of a controlled substance or listed chemical, in violation of Title II of the Controlled Substances Act, 21 U.S.C. §§ 801 et seq., and is therefore subject to seizure and forfeiture pursuant to 21 U.S.C. § 881(a)(4).



This the 15 day of September, 2011.



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Derek Marion  
Task Force Officer  
Drug Enforcement Administration